

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 23-3452 JAK (MRWx)	Date	August 21, 2023
Title	Schultz v. Thompson		

Present:	Hon. Michael R. Wilner, U.S. Magistrate Judge		
	James Muñoz	n/a	
	Deputy Clerk	Court Reporter / Recorder	
	Attorneys for Plaintiff:	Attorneys for Defendant:	
	n/a	n/a	

Proceedings: ORDER RE: DISCOVERY MOTION;
ORDER TO SHOW CAUSE

1. On Friday and Saturday, Plaintiff Schultz filed three discovery motions. (Docket # 78-80.) He subsequently withdrew two of them. (Docket # 81-82.) He apparently wishes to pursue the motion at Docket # 79 to compel responses to requests for admission.

2. The motion is summarily DENIED. Among other defects, the motion fails to comply with the joint filing format required under Local Rule 37-2.1. It's also not accompanied by a declaration or other evidence establishing a lack of cooperation, as required by Local Rule 37.2.4.¹ That rule states that "The Court will not consider any discovery motion in the absence" of those documents. On that basis, the motion cannot lead to relief.

* * *

3. Several weeks ago, the assigned district judge issued an order denying a different motion that Plaintiff filed. In that order, the judge noted Plaintiff's obligation to meet and confer with his adversary before engaging in motion practice. Judge Kronstadt stated that "if Plaintiff files additional motions without meeting and conferring with

¹ It's unlikely that Plaintiff is entitled to conduct any discovery at all. There is no proof that the parties conducted their meeting pursuant to Federal Rule of Civil Procedure 26(f). "A party may not seek discovery from any source before the parties have conferred" as required under the rule. Fed. R. Civ. P. 26(d). A party may "deliver" document requests before that meeting, but cannot consider them "served" or enforceable before then. Fed. R. Civ. P. 26(b)(2)(A). Given the pending motion to dismiss the action, the Court suspects that Plaintiff's discovery is untimely and premature.

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opposing counsel[,] it may result in the issuance of an Order to Show Cause why sanctions should not be imposed.” (Docket # 63 at 2.)

4. Therefore, it is ORDERED that Plaintiff show cause why he should not pay sanctions to the defense or the Court. Plaintiff will respond to this OSC with a sworn declaration under penalty of perjury explaining the basis for his conduct. That declaration will be due by no later than September 5. After the Court reviews Plaintiff’s submission, it will conduct further proceedings as appropriate.

Failure to comply with the terms of this order may result in a recommendation that the action be dismissed for failure to prosecute pursuant to Federal Rule of Civil Proc. 41(b). Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884 (9th Cir. 2019).